

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DONALD RAY HOPKINS,

No. C 13-04447 RS

Plaintiff,

**ORDER VACATING HEARING AND
REQUESTING FURTHER BRIEFING**

v.

AMERICAN HOME MORTGAGE
SERVICING, INC., a Delaware
Corporation registered to do business in the
State of California; CITIBANK,
AMERICAN BROKERS CONDUIT, a
form of business unknown, and DOES 2 to
1,000

Defendants.

Plaintiff Donald Ray Hopkins filed this action in Alameda County Superior Court in June 2011. Two years later, after Hopkins lodged a fourth amended complaint, defendants removed to federal court. Defendants Citibank and American Home Mortgage Servicing, Inc. (AHMSI) then brought two motions to dismiss and a motion to strike, all of which have gone unopposed. After the opposition deadlines passed for all three motions, Hopkins gave notice that a bankruptcy stay applies to any actions against nonmoving defendant American Brokers Conduit (ABC). (Dkt. No. 29). It appears Hopkins, who asserts that ABC is an indispensable party, may believe the filing of that notice suffices to preclude this court from reaching the merits of moving defendants' pending

1 motions to dismiss and strike his fourth amended complaint. AHMSI objects, arguing that the state
2 court rejected a similar contention by plaintiff prior to removal, and that the court's ruling remains
3 in effect and applicable here. (Dkt. No. 30). In July 2013, while the case was still in state court,
4 Hopkins notified the court that he had been served with a notice of automatic stay by ABC, which
5 filed for bankruptcy protection in 2007. Hopkins filed an ex parte application to continue several
6 pending motions so that he could file a regularly-noticed motion to stay, arguing that AHMSI had
7 refused to stipulate to a stay. The court denied Hopkins' request. (Dkt. No. 30, Exh. 2).

9 It is unclear that the state court's denial of Hopkins' ex parte application to continue a
10 hearing date is dispositive. Accordingly, within fifteen days of this order, the parties shall submit
11 briefs, not to exceed ten pages each, addressing the effect of the bankruptcy stay on the court's
12 jurisdiction to address dispositive motions brought by other defendants. The hearing set for
13 November 21, 2013 is vacated pending further order of court.
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16 IT IS SO ORDERED.

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18 Dated: 11/13/13

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21 RICHARD SEEBORG
22 UNITED STATES DISTRICT JUDGE
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